

LAW OFFICES OF
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September 24, 2021

By ECF

Honorable Lewis A. Kaplan
United States District Judge
Southern District of New York
New York, New York 10007

Re: *U.S. v. Ofer Abarbanel, 21 Cr. 532 (LAK)*

Dear Judge Kaplan:

I write to respectfully request that the Court appoint new CJA counsel to Mr. Abarbanel in the above referenced case. I am actively engaged in an authorized death penalty case as lead counsel, wherein my client is alleged to have committed seven homicides and other crimes in connection with his membership in MS-13 involving an initial twenty-two defendants, and continuing addition of new defendants in *US v. Saenz*, 16 Cr. 403 (JFB). I am also involved in a death-eligible case pending before the Attorney General's Capital Case Committee. Both cases require an extraordinary commitment of time and effort.

Mr. Abarbanel is charged with the commission of a securities scheme and wire fraud violation from 2018 to June 2021. During yesterday's arraignment on the indictment, I learned of the magnitude of discovery to be produced, which the government termed as "voluminous" and "complex." The data alone includes, but is not limited to: email containers with full email account seizures from Google (Mbox) and Apple (Gpg), business records in document and spreadsheet format including financial returns and audit reports consisting of thousands of pages, cell phone provider records for seized cellphones, GPS location data most likely from the email accounts, cellular service providers and potentially from device seizures, and seized and imaged devices in proprietary format such as Cellebrite .ufdr format and FTK/Encase .E01 files that counsel will require experts to assist with access and review. The initial discovery provided on a DVD contains business records from several funds, emails, audio recordings, warrants, invoices and business records from several companies. The second and third discovery productions are anticipated to exceed three terabytes of data. For example, three laptops were seized and one laptop has over two terabytes of data. This is a massive undertaking to both access and effectively review. Defense of Mr. Abarbanel in this complex case will require more than a solo practitioner; a defense team will need to be coordinated.

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This case will require the services of the National Litigation Trial Support team (Office of Defender Services) to assist with team coordination and technology required for discovery review. An online database platform may be necessary given the volume of documents. Coordination of the defense team and identification of the necessary experts (e.g., cell phone, FTK/Encase, financial accountant) will be a timely and costly process. I have conferred with the Second Circuit Case Budgeting Attorney, Alan Nelson. Based on the volume and type of discovery to be provided by the government, Mr. Nelson believes this is a mega case that would benefit from the National Litigation Supported Independent Discovery Platform and more than one attorney, as well as administrative support staff who can devote the necessary time and attention this case will require.

My obligations as lead counsel in a complex MS-13 case authorized for the death penalty consume at least seventy percent of my time. Given the magnitude of Mr. Abarbanel's case and the current motion schedule, I am unable to provide Mr. Abarbanel and my capital client the time and commitment that their respective cases require.

I have never declined to accept a case but I believe given all of the foregoing, I cannot provide Mr. Abarbanel the effective representation he must receive. I am respectfully asking that I be relieved and that new counsel be appointed for Mr. Abarbanel. Thank you for your prompt attention to this matter.

Respectfully,
N. Todd
Natali Todd, Esq.

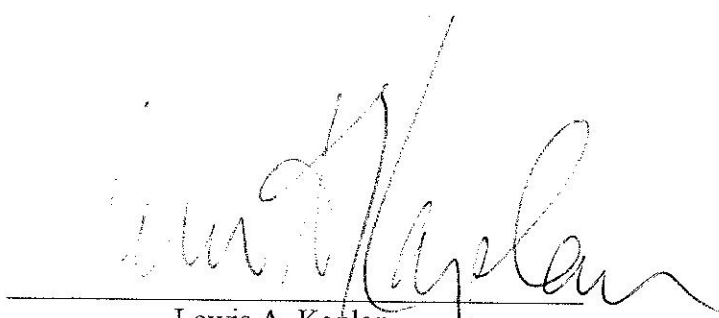
cc: AUSA Allison Nichols

MEMO ENDORSED

Motion to be relieved granted. Glenn McGorty, Esq., the CJA lawyer on duty today, is substituted as counsel for the defendant.

SO ORDERED.

Dated: September 27, 2021


Lewis A. Kaplan
United States District Judge